

AMENDED IN ASSEMBLY JUNE 11, 2003

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 10, 2003

SENATE BILL

No. 739

**Introduced by Senator Ducheny
(Coauthor: Senator Chesbro)**

February 21, 2003

An act to add and repeal Section 10553.3 of the Welfare and Institutions Code, relating to tribal health.

LEGISLATIVE COUNSEL'S DIGEST

SB 739, as amended, Ducheny. Children's services: Indian tribes.

Existing law requires each county to provide child welfare services. Existing law also requires each county to provide payments on behalf of eligible children in foster care pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program. Both the provision of child welfare services programs and the AFDC-FC program are subject to regulations adopted by the State Department of Social Services.

Existing law authorizes the Director of Social Services, in accordance with federal law, to enter into agreements with Indian tribes to delegate to the Indian tribe county responsibilities for either or both the provision of child welfare services and the provision of payments pursuant to the AFDC-FC program.

This bill would, until January 1, ~~2009~~ 2007, authorize the director to establish a ~~5-year~~ 3-year pilot project *with the Washoe Tribe of California and Nevada* to explore the feasibility of permitting ~~tribal communities~~ *Indian tribes* to provide child welfare services to a broad

population of Indian children and families within ~~tribal communities~~
Indian reservations or rancherias.

~~This bill would authorize, pursuant to the pilot project, Indian tribes to enter into agreements with the director, in accordance with provisions of existing law, to provide child welfare services, assistance payments under the AFDC-FC program, or both, to a target population of Indian children, as defined, and would authorize the Indian tribes to receive federal and state financial reimbursement for those services.~~

This bill would require that, prior to the implementation of the pilot project, the director establish an implementation workgroup, as specified.

This bill would require child welfare services allocation methodologies for these contracts to be developed *by the workgroup*, in consultation with, and agreed to by, the department, the affected ~~counties~~ county, and the affected ~~participating~~ Indian tribe.

This bill would also provide that implementation of agreements pursuant to its provisions that would delegate county responsibilities for child welfare services or assistance payments shall not be construed to impose liability on, or to require indemnification by, the participating county or the state for any act *or omission* ~~performed~~ by an officer, agent, or employee of the participating tribe.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature to enact
2 legislation to establish a ~~five-year~~ *three-year pilot* project to
3 determine the feasibility of allowing ~~tribal communities~~ *Indian*
4 *tribes* to provide child welfare services to a broad population of
5 Indian children within ~~tribal communities~~. *Indian reservations or*
6 *rancherias. It is further the intent of the Legislature to preserve the*
7 *ability of the county affected by agreements reached pursuant to*
8 *this project to appropriately serve children and families.*

9 SEC. 2. Section 10553.3 is added to the Welfare and
10 Institutions Code, to read:

11 10553.3. (a) The director may establish a ~~five-year pilot~~
12 ~~project to explore the feasibility of permitting tribal communities~~
13 ~~to provide child welfare services to a broad population of Indian~~
14 ~~children and families within tribal communities.~~

1 ~~(b) In implementing subdivision (a) and notwithstanding any~~
2 ~~other provision of law, the director may enter into agreements with~~
3 ~~Indian tribes, pursuant to Section 10553.1, that utilize the~~
4 ~~definition of “Indian” used in Section 1603(c) or 1679(b) of Title~~
5 ~~25 of the United States Code.~~

6 ~~(c) An Indian tribe may enter into an agreement with the~~
7 ~~director, pursuant to Section 10553.1, to provide child welfare~~
8 ~~services or assistance payments under the AFDC-FC program, or~~
9 ~~both, to the target population of children as defined for purposes~~
10 ~~of the pilot program described in subdivision (a), and may receive~~
11 ~~federal and state financial reimbursement for those services.~~

12 ~~(d) An agreement entered into pursuant to this section shall be~~
13 ~~governed by Section 10553.2, as added by Section 5 of Chapter~~
14 ~~724 of the Statutes of 1995, and as subsequently amended.~~
15 ~~Approval of the child welfare services allocation methodology~~
16 ~~required pursuant to Section 10553.2 shall be based on a clear~~
17 ~~delineation of the respective responsibilities of the tribe and the~~
18 ~~affected counties.~~

19 ~~(e) Implementation of the director’s agreements pursuant to~~
20 ~~this section with Indian tribes to delegate county responsibilities~~
21 ~~for child welfare services or assistance payments shall not be~~
22 ~~construed to impose liability on, or to require indemnification by,~~
23 ~~the participating county or the state for any act performed by an~~
24 ~~officer, agent, or employee of the participating tribe.~~

25 ~~(f) three-year pilot project to determine the feasibility of~~
26 ~~allowing Indian tribes to provide child welfare services pursuant~~
27 ~~to an agreement under Section 10553.1 to a broad population of~~
28 ~~Indian children and families residing on tribal reservations or~~
29 ~~rancherias.~~

30 ~~(b) For purposes of this section, “Indian” shall have the same~~
31 ~~meaning as defined in Section 1603(c) or 1679(b) of Title 25 of the~~
32 ~~United States Code.~~

33 ~~(c) For purposes of this section, the pilot project shall be~~
34 ~~limited to the Washoe Tribe of California and Nevada.~~

35 ~~(d) Prior to the implementation of this pilot project, the director~~
36 ~~shall establish an implementation workgroup. Members shall~~
37 ~~include representatives of the tribe and county that would be~~
38 ~~impacted by the pilot project. The purpose of the implementation~~
39 ~~workgroup shall be to establish guidelines for defining the service~~

1 *population, the allocation methodology, and the roles and*
2 *responsibilities of all parties impacted by the pilot project.*

3 *(e) An agreement entered into pursuant to this section shall be*
4 *governed by Section 10553.2, as added by Section 5 of Chapter*
5 *724 of the Statutes of 1995. An agreement pursuant to this pilot*
6 *project shall be based on a clear delineation of the respective*
7 *responsibilities of the tribe and the affected county, and an*
8 *agreement on the allocation methodology required by Section*
9 *10553.2.*

10 *(f) Implementation of an agreement pursuant to this section*
11 *that would delegate county responsibility for child welfare services*
12 *or AFDC-FC assistance payments to a tribe shall not be construed*
13 *to impose liability on, or to require indemnification by, the*
14 *participating county or the state for any act or omission by an*
15 *officer, agent, or employee of the participating tribe.*

16 *(g) Nothing in this section shall be construed to prohibit the*
17 *director from entering into agreements authorized by Section*
18 *10553.1.*

19 *(h) This section shall remain effective only until January 1,*
20 *~~2009~~ 2007, and as of that date is repealed, unless a later enacted*
21 *statute, that is enacted before January 1, ~~2009~~ 2007, deletes or*
22 *extends that date.*

